

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

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MARJORIE FERRELL, <i>et al.</i> ,	)	Civil Action No. C-1-01-447
	)	
Plaintiffs,	)	Judge Sandra S. Beckwith
	)	Magistrate Judge Timothy S. Hogan
v.	)	
	)	
WYETH-AYERST LABORATORIES,	)	
INC., <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	

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**MOTION OF VERMONT PLAINTIFF MARILYN DEYO TO STAY  
THE LITIGATION AS TO VERMONT END-PAYORS OR, ALTERNATIVELY,  
FOR APPOINTMENT AS CLASS REPRESENTATIVE WITH HER COUNSEL AS  
CLASS COUNSEL OF THE VERMONT STATE CONSUMER SUBCLASS**

Marilyn Deyo (the "Vermont Plaintiff") hereby respectfully moves this Court for to stay the above-captioned action as to the Vermont State Consumer Subclass as identified in the Court's June 30, 2004 [Class Certification] Order at p.3 because of the inadequacy of the representation of that Subclass by the current parties to the litigation. The Vermont Plaintiff recently filed recently filed a Class Action Complaint in the Vermont Superior Court, Washington County, docket number 735-12-04 Wncv, (the "Vermont Action"), on behalf of herself and the class of Vermont end-payors for the conjugated estrogens pharmaceuticals Premarin ®, Premphase ®," and Prempro ™ seeking to recover the consideration paid by the Vermont Plaintiff and the members of the putative Vermont class of end-payors (the "Vermont Class") pursuant to applicable provisions of the Vermont Consumer Fraud Act, 9 V.S.A. §2451, *et seq.* The Vermont Plaintiff requests that the instant

litigation be stayed as to the Vermont Class until the Vermont Action is resolved. A [Proposed] Order to Stay the Litigation as to Vermont End-Payors is attached hereto as Exhibit 1.

In the alternative, the Vermont Plaintiff respectfully moves this Court to appoint her as the class representative of the Vermont Subclass, with her counsel to be appointed class counsel of the Vermont Subclass. A [Proposed] Order Appointing the Vermont Plaintiff Marilyn Deyo as Class Representative and Her Counsel as Class Counsel of the Vermont State Consumer Subclass is attached hereto as Exhibit 2.

The reasons supporting this motion are set forth in the Motion of Vermont Plaintiff Marilyn Deyo to Intervene Under Rule 24 and the memorandum submitted in support thereof .

Wherefore, the Vermont Plaintiff respectfully requests that the Court grant this Motion to Stay, or, alternatively, grant the Vermont Plaintiff's Motion for Appointment as Class Representative for the Vermont Subclass and for Appointment of Her Counsel as Class Counsel for the Vermont Subclass.

Dated: December 30, 2004

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Deyo v. Wyeth, Docket No. 735-12-04 Wncv in  
Washington Superior Court, Washington County,  
Vermont*

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been filed electronically with the U.S. District Court; has been sent electronically this 30<sup>th</sup> day of December, 2004. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parities may access this filing through the Court's system. If a party is not given notice electronically through the Court's system a copy will be served by ordinary United States mail, first class postage prepaid, this 30<sup>th</sup> day of December, 2004.

s/Richard S. Wayne  
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